

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	Crim. No. 03-296-A
v.)	
)	The Honorable Leonie M. Brinkema
IBRAHIM AHMED AL-HAMDI)	

PLEA AGREEMENT

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, and Gordon D. Kromberg and David H. Laufman, Assistant United States Attorneys, and John T. Gibbs, Department of Justice Trial Attorney, the defendant IBRAHIM AHMED AL-HAMDI, and the defendant's counsel, Jonathan Lienhard, have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. **Offense and Maximum Penalties**

The defendant agrees to plead guilty to Count 20 of the pending Indictment and to a Criminal Information. Count 20 of the Indictment charges the defendant with possessing a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Sections 924(c). The maximum penalties for this offense are a mandatory minimum term of imprisonment of five years, a maximum term of life in prison, a fine of \$250,000, full restitution, a special assessment, and five years of supervised release. The count in the Criminal Information charges the defendant with carrying an explosive during the commission of a felony which may be prosecuted in a court of the United States, in violation of Title 18, United States Code, Sections 844(h)(2). The maximum penalties for this offense are a mandatory term of imprisonment of ten years, a fine of \$250,000, full restitution, a special assessment, and three years of supervised release. The defendant understands that these supervised release terms are in

addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. **Detention Pending Sentencing**

The defendant understands that this case is governed by Title 18, United States Code, Sections 3143(a)(2) and 3145(c). These provisions provide that a judicial officer shall order that a person who has pled guilty to an offense of this kind be detained unless there are statutory justifications why such person's detention would not be appropriate.

3. **Factual Basis for the Plea**

The defendant will plead guilty because the defendant is in fact guilty of the charged offenses. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt. The statement of facts constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

4. **Assistance and Advice of Counsel**

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and

- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

5. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with the Sentencing Guidelines and Policy Statements. The defendant understands that the Court has not yet determined a sentence and that any estimate of the probable sentencing range under the sentencing guidelines the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

6. Waiver of Appeal and Review

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a

representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

7. **Special Assessment**

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100) per count of conviction.

8. **Payment of Monetary Penalties**

The defendant understands and agrees that, pursuant to Title 18, United States Code, Sections 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

9. **Immunity from Further Prosecution in this District**

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the indictment, information, or statement of facts.

10. **Dismissal of Other Counts**

After defendant's guilty pleas are accepted by the Court in accordance with this agreement, the United States will move to dismiss the remaining counts of the indictment against him.

11. **Government's Agreement Regarding Sentence Defendant Already is Serving**

In consideration of the defendant's entry of his pleas in accordance with this agreement, the United States will recommend to the Court that to the extent permitted by law the sentence to be imposed against the defendant in this case should be imposed to run concurrently with the sentence that the defendant already is serving based upon his plea and conviction in *United States v. Ibrahim Ahmed Al-Hamdi*, Crim. No. 03-158-A (E.D. Va. Aug. 1, 2003). The Government also agrees that should the defendant's diplomatic immunity appeal in the aforementioned case ultimately be successful, the Government will be bound by such a determination in this case.

12. **Defendant's Cooperation**

The defendant agrees to cooperate fully and truthfully with the United States, and provide all information known to the defendant regarding any criminal activity as requested by the government. In that regard:

a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.

b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.

c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.

d. The defendant agrees that, upon request by the United States, the defendant will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice.

e. The defendant agrees that the Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.

f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether to file a motion for a downward departure or reduction of sentence.

g. Nothing in this agreement places any obligation on the government to seek the defendant's cooperation or assistance.

13. Use of Information Provided by the Defendant Under This Agreement

Pursuant to Section 1B1.8 of the Sentencing Guidelines, no truthful information that the defendant provides pursuant to this agreement will be used to enhance the defendant's guidelines range. The United States will bring this plea agreement and the full extent of the defendant's cooperation to the attention of other prosecuting offices if requested. Nothing in this plea agreement, however, restricts the Court's or Probation Office's access to information and records in the possession of the United States. Furthermore, nothing in this agreement prevents the government in any way from prosecuting the defendant should the defendant provide false, untruthful, or perjurious information or testimony or from using information provided by the defendant in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial.

14. **Defendant Must Provide Full, Complete and Truthful Cooperation**

This plea agreement is not conditioned upon charges being brought against any other individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

15. **Motion for a Downward Departure**

The parties agree that the United States reserves the right to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K1.1 of the Sentencing Guidelines and Policy Statements, or any reduction of sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, if, in its sole discretion, the United States determines that such a departure or reduction of sentence is appropriate.

16. **Consent to Removal from the United States**

The defendant acknowledges that the defendant is removable from the United States and agrees not to contest any removal proceedings brought against the defendant by the Department of Homeland Security (DHS). If the DHS files a Notice to Appear or other administrative charging document against the defendant, the defendant agrees to request an expedited removal hearing and to consent to removal. The defendant acknowledges that by consenting to removal, the defendant will be immediately removed from the United States upon the completion of any

period of incarceration. The defendant knowingly waives any and all rights to appeal, reopen, reconsider, or otherwise challenge this removal.

17. **Waiver of Rights Related to Removal from the United States**

The defendant agrees to waive the defendant's rights to any and all forms of relief from removal, deportation, or exclusion under the Immigration and Nationality Act (as amended) and related federal regulations. These rights include, but are not limited to, the ability to apply for the following forms of relief: (a) voluntary departure; (b) asylum; (c) cancellation of removal; (d) withholding or suspension of deportation; and (e) adjustment of status. In addition, the defendant agrees to waive the defendant's rights to relief from removal under Article 3 of the Convention Against Torture.

18. **Abandonment of Pending Applications for Relief from Removal**

The defendant understands that any application for relief from removal, deportation, or exclusion the defendant filed prior to the completion of this plea agreement shall be deemed abandoned. The defendant further understands and agrees that the filing of any applications for relief from removal, deportation, or exclusion, either written or oral, or the prosecution of any pending applications, before any federal court, the Board of Immigration Appeals, an immigration judge, or the DHS, shall breach this plea agreement.

19. **The Defendant's Cooperation in Removal Proceedings**

The defendant agrees to assist the DHS in the execution of the defendant's removal. Specifically, the defendant agrees to assist the DHS in the procurement of any travel or other documents necessary for the defendant's removal; to meet with and to cooperate with representatives of the country or countries to which the defendant's removal is directed; and to

execute those forms, applications, or waivers needed to execute or expedite the defendant's removal. The defendant further understands that the defendant's failure or refusal to assist the DHS in the execution of the defendant's removal shall breach this plea agreement and may subject the defendant to criminal penalties under Title 8, United States Code, Section 1253.

20. **Breach of the Plea Agreement and Remedies**

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violate any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and
- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

21. **Nature of the Agreement and Modifications**

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

Paul J. McNulty
United States Attorney

By:
Gordon D. Kromberg
David H. Laufman
Assistant United States Attorneys

John T. Gibbs
Trial Attorney
Counterterrorism Section, Criminal Division
United States Department of Justice

APPROVED:

[Supervisory Assistant United States Attorney]

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: _____

IBRAHIM AHMED AL-HAMDI

Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending criminal information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: _____

Jonathan Lienhard
Counsel for the Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-296-A
)	
IBRAHIM AHMED AL-HAMDI)	

WAIVER OF INDICTMENT

I, IBRAHIM AHMED AL-HAMDI, the above named defendant, accused of carrying an explosive during the commission of a felony which may be prosecuted in a court of the United States, in violation of Title 18, United States Code, Section 844(h)(2), being advised of the nature of the charges, the proposed information, and of my rights, hereby waive in open court prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

Date: _____

IBRAHIM AHMED AL-HAMDI
Defendant

Jonathan Lienhard
Counsel for Defendant

Before: _____
LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-296-A
)	
IBRAHIM AHMED AL-HAMDI)	

STATEMENT OF FACTS

Were this matter to go to trial, the United States of America would prove the following facts beyond a reasonable doubt:

1. In or about September 2000, near Muzafrabad, Pakistan, IBRAHIM AHMED AL-HAMDI carried a rocket-propelled grenade during the commission of a conspiracy to prepare the means for and take part in military expeditions and enterprises against countries with whom the United States is at peace, including India. On or about December 18, 2000, in Fairfax, Virginia, IBRAHIM AHMED AL-HAMDI obtained a Saiga .308 rifle from Seifullah Chapman. AL-HAMDI possessed this rifle to enhance his ability to train for jihad in Chechnya, Kashmir, or other places outside the United States.

2. Starting in or about January 2000, IBRAHIM AHMED AL-HAMDI agreed with others to prepare for jihad on behalf of Muslims in Kashmir, Chechnya, and other areas outside the United States against countries, governments, military forces, and peoples that Al-HAMDI and the others believed to be oppressors of Muslims.

3. For the purpose of preparing to fight in Kashmir, Chechnya, and elsewhere around the world outside the United States, IBRAHIM AHMED AL-HAMDI and his conspirators obtained

AK-47-style rifles and similar weapons to develop familiarity and skills with the weapons of choice used by mujahideen in Bosnia, Chechnya, and Kashmir.

4. In or about January 2000, AL-HAMDI decided to try to go to fight to help Muslims in Chechnya. AL-HAMDI had previously attempted to get to Chechnya, but was unable to because he lacked military training. As a result, he decided to go to the LET in Pakistan in order to get training with the hopes that he could there make contacts necessary to then go on to Chechnya.

5. AL-HAMDI told Caliph Basha Ibn Abdur-Raheem, Hammad Abdur-Raheem, and others that he prepared to join the mujahideen and die “shaheed” -- that is, as a martyr in furtherance of jihad - - in Kashmir, Chechnya, and elsewhere around the world outside the United States.

6. On or about February 23, 2000, Royer and AL-HAMDI went to the Pakistani Embassy in Washington, D.C., to obtain visas to enter Pakistan. AL-HAMDI could not obtain a visa because of his diplomatic passport, but planned to solve the problem in time to travel to LET with Royer. AL-HAMDI and Royer later purchased supplies that they thought would be helpful when they eventually went to Chechnya, such as gore-tex gloves, hiking boots, and a compass.

7. After realizing that AL-HAMDI would not have his own arrangements made in time to travel with Royer, Royer traveled to Pakistan by himself. On or about April 10, 2000, Royer entered Pakistan, and found his way to the LET. On or about May 15, 2000, he reentered the United States.

8. When Royer returned to the United States, he told AL-HAMDI about the LET and his experiences there. Royer told AL-HAMDI, Hammad Abdur-Raheem, Caliph Basha, Yong

Kwon, and others that, during his time with LET in Pakistan, he traveled to the front line in Kashmir and that, while there, he was given - - and took - - an opportunity to shoot some rounds at Indian positions in Kashmir with a firearm.

9. In or about August 2000, after AL-HAMDI had straightened out his visa problems, Royer helped him gain entry to the LET in Pakistan so that he could obtain jihad training and possibly engage in combat in Kashmir. Royer telephoned an LET member in Pakistan, and said that he knew of a brother who wanted to come over and train. Royer provided the contact with AL-HAMDI's kunya or alias, Abu Harith.

10. On or about August 20, 2000, Masoud Khan and Yong Kwon drove IBRAHIM AHMED AL-HAMDI from Alexandria, Virginia, to Washington Dulles International Airport so that AL-HAMDI could depart for Pakistan to engage in jihad and die shaheed. In or about September 2000, he joined the mujahideen at a Lashkar-e-Taiba camp near Muzafrabad, Pakistan. In the course of his training at the camp, AL-HAMDI carried and handled in training a rocket-propelled grenade, and fired various weapons including automatic rifles. AL-HAMDI returned to the United States on September 25, 2000.

11. Upon his return to the United States, IBRAHIM AHMED AL-HAMDI told Seifullah Chapman, Caliph Basha Ibn Abdur-Raheem, Hammad Abdur-Raheem, and others that he had traveled from the United States to join a group in Pakistan fighting Indians in Kashmir. AL-HAMDI told them that, while there, he had used various weapons, including small arms and machine guns, and had trained on and carried a rocket-propelled grenade. AL-HAMDI said that he went on a mission with LET and, on that mission, his group fired automatic weapons towards Indian troops in Kashmir.

12. In September 2000, IBRAHIM AHMED AL-HAMDI attended a meeting at the Dar Al Arqam in which he described to Seifullah Chapman, Caliph Basha Ibn Abdur-Raheem, Hammad Abdur-Raheem, his experiences with the mujahideen in Pakistan - - including firing at Indians - - and encouraged the attendees to serve with them as well. Shortly thereafter, Seif Chapman told Al-Hamdi that Chapman too planned to go to LET.

13. On or about December 18, 2000, IBRAHIM AHMED AL-HAMDI purchased from Seifullah Chapman a Russian-made Saiga .308 sniper rifle. Chapman knew that AL-HAMDI was in the United States on a diplomatic visa.

14. On or about April 5, 2001, at the residence of IBRAHAM AHMED AL-HAMDI in Alexandria, Virginia, a visitor representing the Benevolence International Foundation discussed a mujahideen camp in Bosnia with Hammad Abdur-Raheem and other conspirators. That same day, Abdur-Raheem and other conspirators watched videos at AL-HAMDI's residence depicting mujahideen engaged in jihad.

15. On or about February 25, 2003, in Annandale, Virginia, IBRAHIM AHMED AL-HAMDI possessed a Russian made Saiga 308-1, .308 caliber rifle with a telescopic sight, and two magazines loaded with .308 caliber ammunition and tracer rounds, as well as documents relating to jihad and martyrdom operations.

Respectfully submitted,

Paul J. McNulty
United States Attorney

By:

Gordon D. Kromberg
David H. Laufman
Assistant United States Attorneys

John T. Gibbs
Trial Attorney
Counterterrorism Section, Criminal Division
United States Department of Justice

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, IBRAHIM AHMED AL-HAMDI and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

IBRAHIM AHMED AL-HAMDI

I am IBRAHIM AHMED AL-HAMDI'S attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Jonathan Lienhard
Attorney for IBRAHIM AHMED AL-HAMDI

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-296-A
)	
IBRAHIM AHMED AL-HAMDI)	

ORDER DISMISSING COUNTS

Upon motion of the United States of America, pursuant to a plea agreement between defendant IBRAHIM AHMED AL-HAMDI and the government, in which the defendant appeared before the Court and entered a plea of guilty to Count 20 of the Indictment and the count in a Criminal Information, it is hereby

ORDERED that Counts 1, 5, 8, 11, and 19, and 29 of the indictment are hereby dismissed with respect to defendant IBRAHIM AHMED AL-HAMDI only.

LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

Date: _____
Alexandria, Virginia

I ASK FOR THIS:

Gordon D. Kromberg
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-296-A
)	
IBRAHIM AHMED AL-HAMDI)	

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

In or about September 2000, near Muzafrabad, Pakistan, the defendant, IBRAHIM AHMED AL-HAMDI, did carry an explosive, specifically a rocket-propelled grenade, during the commission of a felony which may be prosecuted in a court of the United States, to wit, Object One of the conspiracy charged in Count One of the Indictment against the defendant in Criminal NO. 03-296-A, in violation of Title 18, United States Code, Sections 371 and 960, all in violation of Title 18, United States Code, Section 844(h)(2).

Paul J. McNulty
United States Attorney

By:
Gordon D. Kromberg
Assistant United States Attorney